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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,752	05/20/2004	Richard L. Hilton	200312960-1	7349

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FORT COLLINS, CO 80527-2400

EXAMINER

HINDI, NABIL Z

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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05/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/849,752

Applicant(s)

HILTON, RICHARD L.

Examiner

NABIL Z. HINDI

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1, 2, 23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 3-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

In response to applicant's amendment dated April 17, 2007. The following action is taken:

Applicant's election without traverse of species two claims 3-22 is acknowledged by the examiner. Claims 1, 2, 23 and 24 are withdrawn from further consideration.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Mamin et al (5856967).

The following is the examiner interpretation of the claimed invention. A storage medium having a plurality of cells (recording layer to record data), a probe to read and write data recorded onto the recording layer or film, the recording medium includes a first structure and a second structure (areas where data is recorded or formed and areas where data (pits, bumps, trenches...etc) are not recorded, the transition between where data (pits, trenches, bumps...etc) are recorded and where the data is not recorded (land between the pits represents the data. The claim read on a probe in contact with the medium, the data is represented by detecting the pits, and the non-pitted areas (land between the pits). The reference shows a medium having a plurality of cells (recording layer or film where data is recorded) 210, a first and second structure 212, 215, a probe 36 wherein the transition between the area 212 and 215 represents the data on the medium.

With respect to the limitation of claim 4-see element 212.

With respect to the limitation of claim 5 see elements 212 and 215 having different structure.

With respect to the limitations of claims 6 and 7. The chemical and electron structure representing the data and non-data are different from each other.

With respect to the limitation of claim 8 see fig 4.

With respect to the limitation of claim 10. The reference shows the use of cells (recording layer) where the cells where data is recorded 212 and cells where data is not recorded 215 is illustrated.

With respect to the limitations of claims 11 and 12. The claimed cells are merely the recording layer where data is recorded or not recorded. The reference shows the use of a recording layer (cells) 210.

With respect to the limitations of claims 13 and 14 see figs 7 and 8.

With respect to the limitations of claims 15 and 16 see fig 5 element 260.

With respect to the limitations of claims 17 and 18. The use of an encoder in data recording in an inherent feature of a recording device.


With respect to the limitation of claim 20. it the feature of the data recording to have a temperature higher during the recording operation than that during the read operation in order to record (burn) data on a medium.

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With respect to the limitations of claims 21 and 22. The reference is drawn to a recording and reproducing apparatus wherein an encoder is an inherent feature of a recording device.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6249747.

Any inquiry concerning this communication should be directed to NABIL Z. HINDI at telephone number (571) 272-7618.



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2627